

State and county	Cancellation and termination dates	Contract change date
Alaska; Alamosa, Conejos, Costilla, Rio Grande, and Saguache Counties, Colorado; Maine; Minnesota; Daniels and Sheridan Counties, Montana; New Hampshire; North Dakota; Corson, Walworth, Edmunds, Faulk, Spink, Beadle, Kingsbury, Miner, McCook, Turner, and Yankton Counties South Dakota, and all South Dakota counties east thereof; Vermont; and Big Horn, Fremont, Hot Springs, Park, and Washakie Counties, Wyoming..	March 15	November 30.

PART 408 [RESERVED]**PART 409—ARIZONA—CALIFORNIA
CITRUS INSURANCE REGULATIONS****Subpart—Regulations for the 1987 and
Succeeding Crop Years**

Sec.

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AUTHORITY: 7 U.S.C. 1506, 1516.

SOURCE: 50 FR 43662, Oct. 29, 1985, unless otherwise noted.

**Subpart—Regulations for the 1987
and Succeeding Crop Years****§ 409.1 Availability of Arizona-California Citrus crop insurance.**

Insurance shall be offered under the provisions of this subpart on citrus in counties within limits prescribed by and in accordance with the provisions of the Federal Crop Insurance Act, as amended. The counties shall be designated by the Manager of the Corporation from those approved by the Board of Directors of the Corporation.

§ 409.2 Premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed.

(a) The Manager shall establish premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed for Arizona-California citrus which will be included in the actuarial table on file in the applicable service offices for the

county and which may be changed from year to year.

(b) At the time the application for insurance is made, the applicant will elect an amount of insurance per acre from among those amounts shown on the actuarial table for the crop year.

§ 409.3 OMB control numbers.

The OMB control numbers are contained in subpart H of part 400, title 7 CFR.

§ 409.4 Creditors.

An interest of a person in an insured crop existing by virtue of a lien mortgage, garnishment, levy, execution, bankruptcy, involuntary transfer or other similar interest shall not entitle the holder of the interest to any benefit under the contract.

§ 409.5 Good faith reliance on misrepresentation.

Notwithstanding any other provision of the Arizona-California Citrus insurance contract, whenever: (a) An insured under a contract of crop insurance entered into under these regulations, as a result of a misrepresentation or other erroneous action or advice by an agent or employee of the Corporation: (1) Is indebted to the Corporation for additional premiums; or (2) has suffered a loss to a crop which is not insured or for which the insured is not entitled to an indemnity because of failure to comply with the terms of the insurance contract, but which the insured believed to be insured, or believed the terms of the insurance contract to have been complied with or waived; and (b) the Board of Directors of the Corporation, or the Manager in cases involving not more than \$100,000.00 finds that: (1) An agent or employee of the Corporation did in fact make such misrepresentation or take

other erroneous action or give erroneous advice; (2) said insured relied thereon in good faith; and (3) to require the payment of the additional premiums or to deny such insured's entitlement to the indemnity would not be fair and equitable, such insured shall be granted relief the same as if otherwise entitled thereto. Requests for relief under this section must be submitted to the Corporation in writing.

§ 409.6 The contract.

The insurance contract shall become effective upon the acceptance by the Corporation of a duly executed application for insurance on a form prescribed by the Corporation. The contract shall cover the citrus crop as provided in the policy. The contract shall consist of the application, the policy, and the county actuarial table. Any changes made in the contract shall not affect its continuity from year to year. The forms referred to in the contract are available at the applicable service offices.

§ 409.7 The application and policy.

(a) Application for insurance on a form prescribed by the Corporation may be made by any person to cover such person's share in the citrus crop as landlord, owner-operator, or tenant. The application shall be submitted to the Corporation at the service office on or before the applicable closing date on file in the service office.

(b) The Corporation may discontinue the acceptance of applications in any county upon its determination that the insurance risk is excessive, and also, for the same reason, may reject any individual application. The Manager of the Corporation is authorized in any crop year to extend the closing date for submitting applications in any county, by placing the extended date on file in the applicable service offices and publishing a notice in the FEDERAL REGISTER upon the Manager's determination that no adverse selectivity will result during the extended period. However, if adverse conditions should develop during such period, the Corporation will immediately discontinue the acceptance of applications.

(c) In accordance with the provisions governing changes in the contract con-

tained in policies issued under FCIC regulations for the 1987 and succeeding crop years, a contract in the form provided for under this subpart will come into effect as a continuation of a citrus insurance contract issued under such prior regulations, without the filing of a new application.

(d) The application for the 1987 and succeeding crop years is found at Subpart D of Part 400-General Administrative Regulations (7 CFR 400.37, 400.38) and may be amended from time to time for subsequent crop years. The provisions of the Arizona-California Citrus Insurance Policy for the 1987 and succeeding crop years are as follows:

DEPARTMENT OF AGRICULTURE

FEDERAL CROP INSURANCE CORPORATION

Arizona—California Citrus Crop Insurance Policy

(This is a continuous contract. Refer to section 15.)

AGREEMENT TO INSURE: We will provide the insurance described in this policy in return for the premium and your compliance with all applicable provisions.

Throughout this policy, "you" and "your" refer to the insured shown on the accepted Application and "we," "us," and "our" refer to the Federal Crop Insurance Corporation.

Terms and Conditions

1. Causes of Loss

a. The insurance provided is against unavoidable loss of production resulting from the following causes occurring within the insurance period:

- (1) Adverse weather conditions;
- (2) Fire;
- (3) Wildlife;
- (4) Earthquake;
- (5) Volcanic eruption;
- (6) Failure of the irrigation water supply due to an unavoidable cause occurring after insurance attaches; or
- (7) Direct Mediterranean Fruit Fly damage;

unless those causes are expected, excluded, or limited by the actuarial table or section 9f(7).

b. We will not insure against any loss of production due to:

- (1) Fire, where weeds and other forms of undergrowth have not been controlled or tree pruning debris has not been removed from the grove;
- (2) The neglect, mismanagement, or wrongdoing of you, any member of your household, your tenants, or employees;

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(3) The failure to follow recognized good citrus grove practices;

(4) The failure or breakdown of irrigation equipment or facilities;

(5) The failure to follow good citrus irrigation practices;

(6) The impoundment of water by any governmental, public, or private dam or reservoir project; or

(7) Any cause not specified in section 1a as an insured loss;

2. Crop, Acreage, and Share Insured

a. The crop insured will be any of the following citrus types, which are grown on insured acreage and for which a guarantee and premium rate are provided by the actuarial table, which you elect:

Type I—Navel oranges;

Type II—Sweet oranges;

Type III—Valencia oranges;

Type IV—Grapefruit;

Type V—Lemons;

Type VI—Kinnow mandarins;

Type VII—Minneola tangelos; or

Type VIII—Orlando tangelos;

b. The acreage insured for each crop year will be that acreage of citrus located on insurable acreage as designated by the actuarial table and in which you have a share, as reported by you or as determined by us, whichever we elect.

c. The insured share is your share as landlord, owner-operator, or tenant in the insured citrus on the date insurance attaches.

d. We do not insure any acreage:

(1) Which is not irrigated;

(2) On which the trees have not reached the sixth growing season after being set out; and

(3) Which does not have acceptable records of production, unless inspected by us and considered acceptable and we agree, in writing, to insure such acreage.

e. Insurance will not attach or be considered to have attached to any acreage of the crop, for the crop year the application is filed until the acreage has been inspected and accepted by us.

f. Insurance may attach only by written agreement with us on any acreage with less than 90 percent of a stand, based on the original planting pattern.

g. We may limit the insured acreage to any acreage limitation established under any Act of Congress, if we advise you of the limit prior to the date insurance attaches.

3. Report of Acreage, Share, Number of Trees, and Practice

You must report on our form:

a. All the acreage of citrus in the county in which you have a share;

b. The practice;

c. Your share on the date insurance attaches; and

d. The number of bearing trees.

You must designate separately any acreage that is not insurable. You must report if you do not have a share in any citrus grown in the county. This report must be submitted annually on or before January 10. All indemnities may be determined on the basis of information you submit on this report. If you do not submit this report by January 10, we may elect to determine by unit the insured acreage, share, and practice or we may deny liability on any unit. Any report submitted by you may be revised only upon our approval.

4. Production Guarantees, Coverage Levels, and Prices for Computing Indemnities

a. The production guarantees, coverage levels, and prices for computing indemnities are contained in the actuarial table.

b. Coverage level 2 will apply if you do not elect a coverage level.

c. You may change the coverage level and price election on or before the closing date for submitting applications for the crop year as established by the actuarial table.

d. You must furnish a report of production to us for the previous crop year prior to the sales closing date for the subsequent crop year as established by the actuarial table. If you do not provide the required production report we will assign a yield for the crop year for which the report is not furnished. The production report or assigned yield will be used to compute your production history for the purpose of determining your guarantee for the subsequent crop year. The yield assigned by us will be 75% of the yield assigned for the purpose of determining your guarantee for the present crop year. If you have filed a claim for the previous crop year, the yield determined in adjusting your indemnity claim will be used as your production report.

5. Annual Premium

a. The annual premium is earned and payable on the date insurance attaches. The amount is computed by multiplying the production guarantee times the price election, times the premium rate, times the insurance acreage, times your share at the time insurance attaches.

b. Interest will accrue at the rate of one and one-quarter percent (1¼%) simple interest per calendar month, or any part thereof, on any unpaid premium balance starting on the first day of the month following the first premium billing date.

c. If you are eligible for a premium reduction in excess of 5 percent based on your insuring experience through the 1985 crop year under the terms of the experience table contained in the citrus policy in effect for the 1986 crop year, you will continue to receive the benefit of that reduction subject to the following conditions:

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- (1) No premium reduction will be retained after the 1991 crop year;
- (2) The premium reduction will not increase because of favorable experience;
- (3) The premium reduction will decrease because of unfavorable experience in accordance with the terms of the policy in effect for the 1986 crop year;
- (4) Once the loss ratio exceeds .80, no further premium reduction will apply; and
- (5) Participation must be continuous.

6. Deductions for Debt

Any unpaid amount due us may be deducted from any indemnity payable to you, or from any loan or payment due you under any Act of Congress or program administered by the United States Department of Agriculture or its Agencies.

7. Insurance Period

a. Insurance attaches on December 1 prior to the calendar year of normal bloom, and ends at the earliest of:

- (1) Total destruction of the citrus;
- (2) Harvest of the citrus;
- (3) Final adjustment of a loss; or
- (4) The date following the year in which the bloom is normally set as follows:
 - (a) August 31 for Navel oranges and Southern California lemons;
 - (b) November 30 for Valencia oranges; or
 - (c) July 31 for all other types of citrus.

8. Notice of Damage or Loss

a. In case of damage or probable loss:

(1) You must give us prompt written notice.

(a) After insured damage to the citrus becomes apparent, giving the dates and causes of such damage; or

(b) If you decide not to further care for or harvest any part of it.

(2) You must give us notice of probable loss at least 15 days before the beginning of harvest if you anticipate a loss on any unit.

(3) If probable loss is later determined, immediate notice must be given. If harvest will begin after the end of the insurance period, notice must be given on or before the calendar date for the end of the insurance period.

b. You must obtain written consent from us before you destroy any of the citrus which is not to be harvested.

c. We may reject any claim for indemnity if any of the requirements of this section or section 9 are not complied with.

9. Claim for Indemnity

a. Any claim for indemnity on a unit must be submitted to us on our form not later than 60 days after the earliest of:

- (1) Total destruction of the citrus on the unit;
- (2) Harvest of the unit; or

(3) The calendar date for the end of the insurance period.

b. We will not pay any indemnity unless you:

(1) Establish the total production of citrus on the unit and that any loss of production has been directly caused by one or more of the insured causes during the insurance period; and

(2) Furnish all information we require concerning the loss.

c. The indemnity will be determined on each unit by:

(1) Multiplying the insured acreage by the production guarantee;

(2) Subtracting therefrom the total production of citrus to be counted (see section 9f);

(3) Multiplying the remainder by the price election; and

(4) Multiplying this result by your share.

d. If the information reported by you under section 3 of the policy results in a lower premium than the actual premium determined to be due, the production guarantee on the unit will be computed on the information reported but all production from insurable acreage, whether or not reported as insurable, will count against the production guarantee.

e. If a determination is made that frost protection equipment was not properly utilized or not properly reported, the indemnity for the unit will be reduced by the percentage of premium reduction allowed for frost protection equipment. You must, at our request, provide us records showing the start-stop times by date for each period the equipment was used.

f. The total production (cartons) to be counted for each unit will include all harvested production marketed as fresh packed fruit and all appraised production determined to be marketable as fresh packed fruit.

(1) Any production will be considered marketed or marketable as fresh packed fruit unless, due to insurable causes, such production was not marketed or marketable as fresh packed fruit.

(2) In the absence of acceptable records to determine the disposition of harvested citrus, we may determine such disposition and the amount of such production to be counted for the unit.

(3) Appraised production to be counted will include:

(a) Unharvested production, and potential production lost due to uninsured causes and failure to follow recognized good citrus grove practices;

(b) Not less than the guarantee for any acreage which is abandoned, damaged solely by an uninsured cause or destroyed by you without our consent.

(4) Any appraisal we have made on insured acreage will be considered production to count unless such appraised production is:

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(a) Not harvested before harvest of the insured citrus type becomes general in the county and reappraised by us;

(b) Harvested; or

(c) Further damaged by an insured cause and reappraised by us.

(5) Citrus which cannot be marketed due to insurable causes will not be considered production.

(6) The amount of production of any unharvested citrus may be determined on the basis of field appraisals conducted after the end of the insurance period.

(7) If you elect to exclude hail and fire as insured causes of loss and the citrus is damaged by hail or fire, appraisals will be made in accordance with Form FCI-78, "Request to Exclude Hail and Fire."

g. You must not abandon any acreage to us.

h. You may not sue us unless you have complied with all policy provisions. If a claim is denied, you may sue us in the United States District Court under the provisions of 7 U.S.C. 1508(c). You must bring suit within 12 months of the date notice of denial is received by you.

i. We have a policy for paying your indemnity within 30 days of our approval of your claim, or entry of a final judgment against us. We will, in no instance, be liable for the payment of damages, attorney's fees, or other charges in connection with any claim for indemnity, whether we approve or disapprove such claim. We will, however, pay simple interest computed on the net indemnity ultimately found to be due by us or by a final judgment from and including the 61st day after the date you sign, date, and submit to us the properly completed claim for indemnity form, if the reason for our failure to timely pay is not due to your failure to provide information or other material necessary for the computation or payment of the indemnity. The interest rate will be that established by the Secretary of the Treasury under section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611), and published in the FEDERAL REGISTER semiannually on or about January 1 and July 1. The interest rate to be paid on any indemnity will vary with the rate announced by the Secretary of the Treasury.

j. If you die, disappear, or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved after the date insurance attaches for any crop year, any indemnity will be paid to the person determined to be beneficially entitled thereto.

k. If you have other fire insurance, fire damage occurs during the insurance period, and you have not elected to exclude fire insurance from this policy, we will be liable for loss due to fire only for the smaller of the amount:

(1) Of indemnity determined pursuant to this contract without regard to any other insurance; or

(2) By which the loss from fire exceeds the indemnity paid or payable under such other insurance.

For the purpose of this section, the amount of loss from fire will be the difference between the fair market value of the production on the unit before the fire and after the fire.

10. Concealment or Fraud

We may void the contract on all crops insured without affecting your liability for premiums or waiving any right, including the right to collect any amount due us if, at any time, you have concealed or misrepresented any material fact or committed any fraud relating to the contract. Such avoidance will be effective as of the beginning of the crop year with respect to which such act or omission occurred.

11. Transfer of Right to Indemnity on Insured Share

If you transfer any part of your share during the crop year, you may transfer your right to an indemnity. The transfer must be on our form and approved by us. We may collect the premium from either you or your transferee or both. The transferee will have all rights and responsibilities under the contract.

12. Assignment of Indemnity

You may assign to another party your right to an indemnity for the crop year, only on our form and with our approval. The assignee will have the right to submit the loss notices and forms required by the contract.

13. Subrogation (Recovery of Loss From a Third Party)

Because you may be able to recover all or a part of your loss from someone other than us, you must do all you can to preserve any such right. If we pay you for your loss, then your right of recovery will at our option belong to us. If we recover more than we paid you plus our expenses, the excess will be paid to you.

14. Records and Access to Grove

You must keep, for two years after the time of loss, records of the harvesting, storage, shipment, sale, or other disposition of all citrus produced on each unit, including separate records showing the same information for production from any uninsured acreage. Failure to keep and maintain such records may, at our option, result in cancellation of the contract prior to the crop year to which the records apply, assignment of production to units by us, or a determination that no indemnity is due. Any person

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designated by us will have access to such records and the grove for purposes related to the contract.

15. Life of Contract: Cancellation and Termination

a. This contract will be in effect for the crop year specified on the application and may not be canceled by you for such crop year. Thereafter, the contract will continue in force for each succeeding crop year unless canceled or terminated as provided in this section.

b. This contract may be canceled by either you or us for any succeeding crop year by giving written notice on or before the cancellation date preceding such crop year.

c. This contract will terminate as to any crop year if any amount due us on this or any other contract with you is not paid on or before the termination date preceding such crop year for the contract on which the amount is due. The date of payment of the amount due:

(1) If deducted from an indemnity will be the date you sign the claim; or

(2) If deducted from payment under another program administered by the United States Department of Agriculture will be the date both such other payment and setoff are approved.

d. The cancellation and termination dates are November 30.

e. If you die or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved, the contract will terminate as of the date of death, judicial declaration, or dissolution. If such event occurs after insurance attaches for any crop year, the contract will continue in force through the crop year and terminate at the end thereof. Death of a partner in a partnership will dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a joint interest are insured jointly, death of one of the persons will dissolve the joint entity.

f. The contract will terminate if no premium is earned for 3 consecutive years.

16. Contract Changes

We may change any terms and provisions of the contract from year to year. If your price election at which indemnities are computed is no longer offered, the actuarial table will provide the price election which you are deemed to have elected. All contract changes will be available at your service office by August 31 preceding the cancellation date. Acceptance of any change will be conclusively presumed in the absence of notice from you to cancel the contract.

17. Meaning of Terms

For the purposes of Arizona-California citrus crop insurance:

a. *Actuarial table* means the forms and related material for the crop year approved by us which are available for public inspection in your service office and which show the production guarantees, coverage levels, premium rates, prices for computing indemnities, practices, insurable and uninsurable acreage, and related information regarding citrus insurance in the county.

b. *Carton* as to each insured citrus type means the standard container for marketing fresh packed fruit as shown below by citrus type. In the absence of marketing records on such a carton basis, production will be converted to cartons on the basis of the following average net pounds of packed fruit in a standard packed carton.

Container size	Types of fruit	Pounds
Container #58	Navel oranges, Valencia oranges & Sweet oranges.	38
Container #58	Lemons	40
Container #59	Grapefruit	32
Container #63	Tangerines (including Tangelos) and Mandarin oranges.	25

c. *Contiguous land* means land which is touching at any point, except that land which is separated by only a public or private right-of-way will be considered contiguous.

d. *County* means the county shown on the application and any additional land located in a local producing area bordering on the county as shown by the actuarial table.

e. *Crop year* means the period beginning with the date insurance attaches to the citrus crop and extending through normal harvest time, and will be designated by the calendar year following the year in which the bloom is normally set.

f. *Direct Mediterranean Fruit Fly damage* means the actual physical damage to the citrus on the unit which causes such citrus to be unmarketable and will not include unmarketability of such citrus as a direct result of a quarantine, boycott, or refusal to accept the citrus by any entity without regard to actual physical damage to such citrus.

g. *Harvest* means the severance of mature citrus from the tree either by pulling, picking, or severing by mechanical or chemical means, or picking up the marketable fruit from the ground.

h. *Insurable acreage* means the land classified as insurable by us and shown as such by the actuarial table.

i. *Insured* means the person who submitted the application accepted by us.

j. *Loss ratio* means the ratio of indemnity to premium.

k. *Person* means an individual, partnership, association, corporation, estate, trust, or other legal entity, and wherever applicable, a State, a political subdivision of a State, or any agency thereof.

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l. *Service office* means the office servicing your contract as shown on the application for insurance or such other approved office as may be selected by you or designated by us.

m. *Tenant* means a person who rents land from another person for a share of the citrus or a share of the proceeds therefrom.

n. *Unit* means all insurable acreage in the county of any one of the citrus types referred to in section 2 of this policy, located on contiguous land on the date insurance attaches for the crop year:

(1) In which you have a 100 percent share; or

(2) Which is owned by one entity and operated by another entity on a share basis.

Land rented for cash, a fixed commodity payment, or any consideration other than a share in the citrus on such land will be considered as owned by the lessee. Land which would otherwise be one unit may be divided according to applicable guidelines on file in your service office. Units will be determined when the acreage is reported. Errors in reporting units may be corrected by us to conform to applicable guidelines when adjusting a loss. We may consider any acreage and share thereof reported by or for your spouse or child or any member of your household to be your bona fide share or the bona fide share of any other person having an interest therein.

18. Descriptive Headings

The descriptive headings of the various policy terms and conditions are formulated for convenience only and are not intended to affect the construction or meaning of any of the provisions of the contract.

19. Determinations

All determinations required by the policy will be made by us. If you disagree with our determinations, you may obtain reconsideration of or appeal those determinations in accordance with Appeal Regulations.

20. Notices

All notices required to be given by you must be in writing and received by your service office within the designated time unless otherwise provided by the notice requirement. Notices required to be given immediately may be by telephone or in person and confirmed in writing. Time of the notice will be determined by the time of our receipt of the written notice.

21. Notwithstanding the terms of the crop insurance policy and any contract for crop insurance under the provisions of this part, coverage under the terms of such crop insur-

ance policy will be effective subject to the availability of appropriations.

[50 FR 43662, Oct. 29, 1985, as amended at 51 FR 29205—29207, Aug. 15, 1986; 51 FR 45296, Dec. 18, 1986; 52 FR 3214, Feb. 3, 1987; 54 FR 38962, Sept. 22, 1989; 55 FR 35888, Sept. 4, 1990]

PARTS 410–411 [RESERVED]

PART 412—PUBLIC INFORMATION—FREEDOM OF INFORMATION

Sec.

412.1 General statement.

412.2 Public inspection and copying.

412.3 Index.

412.4 Requests for records.

412.5 Appeals.

412.6 Timing of responses to requests.

AUTHORITY: 5 U.S.C. 552 and 7 U.S.C. 1506.

SOURCE: 62 FR 67694, Dec. 30, 1997, unless otherwise noted.

§412.1 General statement.

This part is issued in accordance with the regulations of the Secretary of Agriculture published at 7 CFR 1.1–1.23, and appendix A, implementing the Freedom of Information Act (5 U.S.C. 552). The Secretary's regulations, as implemented by this part, and the Risk Management Agency (RMA) govern availability of records of the Federal Crop Insurance Corporation (FCIC) as administration of the crop insurance program for FCIC.

§412.2 Public inspection and copying.

(a) Members of the public may request access to the information specified in §412.2(d) for inspection and copying.

(b) To obtain access to specified information, the public should submit a written request, in accordance with 7 CFR 1.6, to the Appeals, Litigation and Legal Liaison Staff, Risk Management Agency, United States Department of Agriculture, 1400 Independence Avenue, SW, STOP 0807, room 6618-S, Washington, DC 20250–0807, from 9:00 a.m.—4:00 pm., EDT Monday through Friday, except holidays.

(c) When the information requested is not located at the office of the Appeals, Litigation and Legal Liaison Staff, the Appeals, Litigation and Legal Liaison Staff will direct the request to the appropriate office where the information